

04.4.2024
Ct.No. 3
Item no.29
nb

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

CRR 351 of 2023

Sri Soumyadeep Naha
Vs.
The State of West Bengal

Ms. Sman Sehanabis(Mondal)

Mr. Salok Sah.

.....for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld APP,

Mr. Arjun Chowdhury,

Ms. Anwesha Chakraborty,

..... for the State.

Affidavit of service filed on behalf of the petitioner is taken
on record.

This revisional application has been preferred under
Section 407 of the Code of Criminal Procedure for transfer of a
criminal proceeding being Special Case No.68 of 2023 pending
before the Court of learned Additional District and Sessions
Judge cum Judge, Special Court, Alipurduar, at Alipurduar
arising out of Birpara P.S. Case No.85 of 2023 dated 18.6.2023
under Section 6 of the Protection of Children from Sexual
Offences Act to the Court of the learned Special Court under
POCSO at Jalpaiguri.

Learned advocate for the petitioner submits that the petitioner is victimized due to political rivalry and he is in custody in connection with an alleged offence. It is further submitted before this Court that it is quite difficult for the petitioner to conduct the case before the learned Special Judge due to political influence upon the concerned Bar. He further submits that if the instant case is transferred to the learned Special Court at Jalpaiguri, it would be not in convenient for any of the parties to conduct the case before the learned Special Court at Jalpaiguri.

Learned advocate appearing on behalf of the State raised strong objection and submits that no materials is placed before this Court to substantiate the fact that the concerned local Bar has been influenced by any political party. He further submits that the allegation in the instant criminal application regarding political rivalry cannot be found at this juncture,;he further submits that prayer cannot be considered at this stage as the de facto complainant and the witnesses are residing within the territorial jurisdiction of the learned Special Court at Alipurduar.

Heard the learned advocate. According to the provision of section 407 of the Code of Criminal Procedure the High Court has the power to transfer the trial of any case from one criminal Court to another Criminal Court for the purpose of fair and impartial enquiry or trial. The High Court has also power under

the said provision to transfer, if it appears to the High Court that the petitioner is facing on usual difficulty to conduct any case before any particular Court.

The ground for transfer as alleged by the petitioner is that, he is facing unusual difficulty to conduct the case before the learned Special Judge. No material has been placed, and /or no regarding the report of Special Judge, or any allegation of the petitioner whether oral or documentary being placed before the learned Special Judge to conduct the case. Furthermore, I find it necessary to comment that the victim as well as the witnesses are residing within the territorial jurisdiction of the learned Special Court, Aliporeduar. So I find no jurisdiction to entertain the prayer of the present petitioner. Accordingly, I find no justification to entertain the criminal revision.

Accordingly, the CRR 351 of 2023 is disposed of under the above observation.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)